

Joint Civil Society Statement in the Case of Prof. Chidi Anselm Odinkalu v. Kaduna State:
An Opportunity to Protect Free Speech in Nigeria

On [October 22, 2020](#), an important case comes for decision before the Federal High Court sitting in Kaduna, north-west Nigeria. The case – brought by Professor Chidi Anselm Odinkalu – will have an important impact on the rights of people in Nigeria to voice their opinions in matters of public interest and question those in authority. We, the undersigned organisations and individuals, see this upcoming case as an opportunity for Nigeria’s judiciary to ensure that the protection of human rights in the country aligns with the Federal Republic of Nigeria’s constitutional, regional and international human rights obligations. In particular, this case provides an opportunity for the judiciary to reinforce the fundamental rights to freedom of expression, access to information, and civic participation.

The case before the Federal High Court challenges the constitutionality of [criminal charges](#) against Prof. Odinkalu, a renowned Nigerian human rights lawyer and former Chairperson of Nigeria’s National Human Rights Commission, following a televised interview he gave in February 2019 in Abuja, the Federal Capital. In the interview, Prof. Odinkalu challenged claims by the Governor of Kaduna State Mallam Nasir El-Rufai – made a day before scheduled elections in the State – that 66 members of the Fulani ethnic group had been killed in Kajuru, Kaduna State. Prof. Odinkalu stated that the Governor’s statement appeared to have no basis in reality and could not be verified by the relevant state agents. He further expressed concern that the statement could cause ethnic tensions leading to electoral violence.

Following the televised interview, on March 18, 2019, Prof. Odinkalu was charged by the Director of Public Prosecution (DPP) of Kaduna State with inciting disturbance, injurious falsehood, public nuisance, and furnishing false information. The case, which was initiated before the Magistrate Court in Kaduna, was fraught with numerous procedural irregularities including an undated case file with no file number; [closed hearings from the public](#); and the continuation of the case in the absence of Prof. Odinkalu despite an order from the High Court staying proceedings in the case. On October 26, 2020, the State High Court of Kaduna will preside over the [judicial review of the criminal proceedings](#) in the Magistrate Court of Kaduna.

The judgment of the Federal High Court on October 22, 2020 presents a monumental opportunity for the court to recognise the right to freedom of expression and ensure that it is enforced in Kaduna State in accordance with the country’s human rights obligations. Government officials and people in authority are not exempt or protected from criticism. [United Nations special experts and mechanisms have specifically highlighted in reference to Nigeria](#), which includes all its Federal States, that public officials are required to tolerate greater criticism than the rest of society and that actions taken by them should not stifle public debate. While the right to freedom of expression may be restricted for public health and public security reasons, such restrictions - even when provided for by law – [must be justifiable in a democratic society](#) and must be [necessary to achieve the stated purpose](#). Furthermore, any limitations [must be the least restrictive means to achieve the objective](#).

The African Court on Human and Peoples' Rights has held that [seeking to impose a prison sentence, let alone corporal punishments such as lashings, for criticism of a public authority – whether true or otherwise – can never be necessary or proportional](#). Regional and international bodies have further called on all States to [repeal criminal defamation laws](#), as well as all laws which effectively criminalise defamation, sedition, insult and false news. Where necessary, such infractions can and should be dealt with through civil proceedings, which should also be adequately proportionate and provide appropriate defences.

Given Nigeria's regional and international obligations, as a signatory to several treaties including the [International Covenant on Civil and Political Rights](#) and the [African Charter on Human and Peoples' Rights](#), we are concerned that the Kaduna State government chose to undertake a criminal prosecution against Prof. Odinkalu for what is clearly protected speech. The undersigned organisations and individuals thus look forward to the decision of the Federal High Court of Nigeria in this important case.

Organisations

1. Africa Judges and Jurists Forum
2. African Defenders (Pan African HRDs Network)
3. African Freedom of Expression Exchange (AFEX)
4. AJPD – Angola
5. Amnesty International
6. Center for Democracy and Development (CDD)
7. Centre for Human Rights Education, Advice and Assistance (CHREAA)
8. Chapter One Foundation
9. DefendDefenders (East and Horn of Africa Human Rights Defenders Project)
10. DITSHWANELO - The Botswana Centre for Human Rights
11. Friends of Angola (FoA)
12. Gender Centre for Empowering Development (GenCED)
13. Global Rights
14. Human Rights Defenders Network-SL
15. Human Rights Institute of Southern Africa (HURISA)
16. International Commission of Jurists- Kenya
17. International Refugee Rights Initiative
18. Kenya Human Rights Commission
19. Media Rights Agenda
20. MOSAIKO-Angola
21. Mouvement Inamohoro, Femmes et Filles pour la paix et la sécurité
22. Open Bar Initiative, Nigeria
23. Open Society Initiative for Southern Africa (OSISA)
24. Pan African Lawyers Union (PALU)
25. Robert F. Kennedy Human Rights
26. SADC Lawyers Association
27. Southern Africa Human Rights Defenders Network

28. Tap Initiative for Citizens Development
29. The Association of Concerned Africa Scholars (ACAS-USA)
30. Torture Abolition and Survivors Support Coalition International (TASSC)
31. Zimbabwe Human Rights NGO Forum
32. Zimbabwe Lawyers for Human Rights

Individuals

- | | |
|-------------------------------|---------------|
| 1. Delma Monteiro | Angola |
| 2. Lúcia da Silveira | Angola |
| 3. Garcia Mvemba | Angola |
| 4. Godinho Cristóvão | Angola |
| 5. Julio Candieiro | Angola |
| 6. Fortunato Paixão | Angola |
| 7. Cristina Gouveia | Angola |
| 8. Alice Mogwe | Botswana |
| 9. Marie Louise Baricaco | Burundi |
| 10. Star Rugori | Burundi |
| 11. Joseph Bikanda | Cameroon |
| 12. Ady Namaran Coulibaly | Cote d'Ivoire |
| 13. Hannah Forster | Gambia |
| 14. Edmund Amarkwei Foley | Ghana |
| 15. Abdul Noormohamed | Kenya |
| 16. Andrew Songa | Kenya |
| 17. Crystal Simeoni | Kenya |
| 18. Diana Gichengo | Kenya |
| 19. Donald Deya | Kenya |
| 20. Irene Soila | Kenya |
| 21. James Gondi | Kenya |
| 22. Maureen Achieng Akena | Kenya |
| 23. Patricia Nyaundi | Kenya |
| 24. Roland Ebole | Kenya |
| 25. Charles Kajoloweka | Malawi |
| 26. Happy Mhango | Malawi |
| 27. Nikiwe Kaunda | Malawi |
| 28. Tiseke Kasambala | Malawi |
| 29. Victor Mhango | Malawi |
| 30. Professor Adriano Nuvunga | Mozambique |
| 31. Custodio Duma | Mozambique |
| 32. Vicente Manjate | Mozambique |
| 33. Norman Tjombe | Namibia |
| 34. Abiodun Baiyewu | Nigeria |
| 35. Cheta Nwanze | Nigeria |
| 36. Edet Ojo | Nigeria |
| 37. Mbasekei Martin Obono | Nigeria |

38. Nana Nwachukwu	Nigeria
39. Ohimai Amaize	Nigeria
40. Valnora Edwin	Sierra Leone
41. Annah Moyo	South Africa
42. Corlett Letlojane	South Africa
43. Hakima Haithar	South Africa
44. Nomsa Sizane	South Africa
45. Samkelo Mokhine	South Africa
46. Simphiwe Sidu	South Africa
47. Shuvai Nyoni	South Africa
48. Sufiya Bray	South Africa
49. Vusumuzi Sifile	South Africa
50. Abdel-Moniem El Jak	Sudan
51. Mary Pais	Swaziland
52. Muzi Masuku	Swaziland
53. Thulani Maseko	Swaziland
54. Vera Mshana	Tanzania
55. Dismas Nkunda	Uganda
56. Jackson Odong	Uganda
57. Lamunu Lamunu Prossy	Uganda
58. Nelly Badaru	Uganda
59. Salima Namusobya	Uganda
60. Sharon Nakandha	Uganda
61. Linda Kasonde	Zambia
62. Professor Michelo Hansungule	Zambia
63. Muleya Mwananyanda	Zambia
64. Muluka Miti-Drummond	Zambia
65. Vusumuzi Sifile	Zambia
66. Justice Alfred Mavedzenge	Zimbabwe
67. Arnold Tsunga	Zimbabwe
68. Brian Tamuka Kagoro	Zimbabwe
69. Makanatsa Makonese	Zimbabwe
70. Charles Clint Chimedza	Zimbabwe
71. Deprose Muchena	Zimbabwe
72. Fungisayi Patricia Mwanyisa	Zimbabwe
73. Hardlife Mudzingwa	Zimbabwe
74. Janah Ncube	Zimbabwe
75. Janet Zhou	Zimbabwe
76. Kelvin Kabaya	Zimbabwe
77. Lloyd Kuveya	Zimbabwe
78. Mamukeleni Tsunga	Zimbabwe
79. Memory Zonde-Kachambwa	Zimbabwe
80. Mooya Nyaundi	Zimbabwe
81. Muchengeti Hwacha	Zimbabwe

82. Munjodzi Mutandiri	Zimbabwe
83. Musa Kika	Zimbabwe
84. Otto Saki	Zimbabwe
85. Passmore Nyakureba	Zimbabwe
86. Siphosami Malunga	Zimbabwe
87. Stanely Nyamanindi	Zimbabwe
88. Professor Carl LeVan	American University
89. Desiree Cormier Smith	Open Society Foundations